

Mr. Chairman, members of the committee, thank you for the opportunity to testify today. My name is Rob Gifford, and I am the President and CEO of the Michigan Restaurant Association.

I am here today in regard to House Bill 4452, a bill which would increase the payroll wage for tipped employees and also index both the minimum wage and the payroll wage annually to inflation. The Michigan Restaurant Association strongly opposes the bill.

As there is a lot of misunderstanding and confusion about the Michigan minimum wage in regard to how tipped employees are treated, I would like to clarify a few points.

**THE MICHIGAN MINIMUM WAGE IS \$6.95, NOT \$2.65.**

When the minimum wage was increased last year to \$6.95, it was increased for all workers, with the small exception of

young employees eligible for the Michigan training wage or the Michigan youth minimum wage. **Under the law, no adult employee makes less than \$6.95 per hour in total wages, whether they ship boxes in a warehouse or serve guests in a restaurant.**

**NO EMPLOYEE MAKES ONLY \$2.65 IN WAGES.**

As stated above, the minimum that an employee in Michigan is entitled to in total wages is \$6.95. Under the Michigan minimum wage act, servers can receive payroll wages less than \$6.95 per hour (no less than \$2.65) if – and only if – the tips they earn and report, when combined with payroll wages, are equal to, or greater than, \$6.95.

**THE EMPLOYER'S OBLIGATION TO TIPPED AND NON-TIPPED EMPLOYEES IS THE SAME: ENSURING A MINIMUM WAGE OF \$6.95 PER HOUR.**

Regardless of how much a server makes in tips, the employer's obligation to the server under the minimum wage is the same as it is to any employee: the employee is guaranteed a minimum wage of \$6.95.

For example, if Terri is a server in a restaurant and she averages \$15 per hour in tips, then she is already well-above the minimum wage and the employer may pay a payroll wage of no less than \$2.65 per hour. If Terri averages only two dollars per hour in tips, however, the employer's obligation is to make up the difference so that she earns a minimum of \$6.95, so a payroll wage of at least \$4.95 per hour must be paid. If Terri reports no tips as income, the employer must pay her a payroll wage of at least \$6.95 per hour. **Thus, regardless of how much Terri earns in tips, under the Michigan minimum wage law she is guaranteed a total minimum wage of \$6.95.**

**LAST YEAR'S MINIMUM WAGE INCREASE DID NOT EXCLUDE  
SERVERS AND OTHER TIPPED EMPLOYEES.**

Again, with the small exception of young employees eligible for the Michigan training wage or the Michigan youth minimum wage, all workers earn a total minimum wage of \$6.95 per hour.

**A SERVER EARNING VERY LITTLE IN TIPS WILL SEE NO BENEFIT  
FROM THIS BILL, WHILE SERVERS ALREADY MAKING \$20 PER  
HOUR IN TIPS WILL GET AN INCREASE.**

Continuing with the above example, if Terri currently earns and reports an average of two dollars per hour in tips, her employer must offer her a payroll wage of \$4.95 to meet the employer's obligation of \$6.95 per hour. Terri goes home today earning \$6.95 per hour. Under this legislation, Terri will still be averaging two dollars per hour in tips. Her employer must still make up the difference and offer her a payroll wage of \$4.95 per hour. Terri will still go home –

even after the bill is signed into law – earning \$6.95 per hour. **She will see no increase in wages from this legislation.**

Now consider Tom, who averages \$20 per hour in tips. Currently, Tom goes home with his \$20 per hour in tips plus his payroll wages of \$2.65 per hour for total wages of \$22.65 per hour. Should this bill become law and be fully phased-in, Tom will still go home with his \$20 per hour in tips plus an increase in his payroll wages to \$4.90 per hour, or \$24.90. **Already making total wages of over \$22 per hour, he will get an increase.**

### **TIPS ARE WAGES.**

It has been stated by some that tips aren't really "wages," in that they aren't paid out of the restaurant's payroll. The fact is that tips are wages. Otherwise, they would not be subject to the same level of taxation that all other wage income is, nor would they be considered as wages for Social Security,

Medicare, and other government programs. In addition, according to proponents of the minimum wage, the purpose of the law is to guarantee that every employee is guaranteed a minimum amount of money for their effort, not to ensure a minimum outlay of money from an employer's payroll.

**PERSONNEL DOLLARS ARE LIMITED** The restaurant business is brutally competitive. Employers have a limited ability to absorb labor cost increases. In most restaurants, tipped employees are the most highly compensated workers. This legislation would have the perverse effect of giving state-mandated raises to the highest paid workers in most restaurants, and redirecting resources from non-tipped employees like dishwashers, prep cooks, and others. It would also reduce funds which would otherwise be used for employee benefits.

Finally, I would like to address the provisions in this legislation which would provide for automatic annual increases in the minimum wage and the payroll wage for tipped employees. When the Legislature considered the minimum wage issue just last year, they included additional increases in the minimum wage to \$7.15 per hour on July 1<sup>st</sup> of this year and to \$7.40 on July 1<sup>st</sup> of 2008. The Legislature wisely refrained from including provisions creating automatic annual indexing, because it is wrong to place this state's labor policy on auto-pilot. In our current economic climate, no worker in Michigan should be guaranteed automatic annual increases in compensation – regardless of what rung they may be upon on the economic ladder. Automatic annual indexing would establish a dangerous precedent, and eliminate the rightful role of the Legislature in periodically reviewing the statewide minimum wage.

To conclude, the Michigan Restaurant Association strongly opposes this legislation and we would urge your opposition as well. Adding another mandatory increase in labor costs for Michigan employers, especially when last year's mandatory increase has not yet even been fully phased-in, will result in significant economic hardship for restaurant operators in every part of the state.

On behalf of the members of the Michigan Restaurant Association, I would like to thank you for your support of Michigan's food and beverage hospitality industry. If you have any questions, concerns, or comments, I would be happy to address them for you.